

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE

SOUTHERN DISTRICT OF GEORGIA
Augusta Division

IN RE:)	Chapter 13 Case
)	Number <u>186-01178</u>
WILLIE FRANK LUNDY)	
CLARA ANN LUNDY)	
)	
Debtors)	
)	
NORTH CAROLINA NATIONAL BANK)	
ASSIGNEE OF FREELANDER, INC.)	
)	
CREDITOR/MOVANT)	

ORDER

Hearing on the motion for relief from stay filed by North Carolina National Bank assignee of Freeland, Inc. (hereinafter "NCNB") was held March 11, 1988 pursuant to notice. Based upon the evidence presented, the court makes the following findings of fact and conclusions of law.

NCNB is a secured creditor of the debtor secured by a deed to secure debt covering property described as lots 11 & 12 Section 7 Block 8, Fitzgerald, Georgia, 704 E. Oconee Street. Although the debtor temporarily resides in Augusta, Georgia and will shortly return to Fitzgerald, Georgia, the property is his homeplace. The property is currently occupied by the debtor's aunt and uncle. NCNB has shown that the debtor is in arrears in post-petition payments as of the date of hearing in the amount of

Two Thousand Seven Hundred Three and 82/100 (\$2,703.82) Dollars. From the evidence presented there appears to be equity in the property in the amount of Nine Thousand Four Hundred and No/100 (\$9,400.00) Dollars above first and second security deed balances. As the property is the debtor's homeplace and there is substantial equity in the property relief from stay is not available under 11 U.S.C. §362(d)(2).

However, the confirmed plan does call for post-petition payments to be made directly to NCNB in a timely manner which may meet the "for cause" criteria of 11 U.S.C. §362(d)(1). The debtor has shown that since the date of the affidavit relied upon by NCNB he has forwarded to this creditor the sum of Three Hundred and No/100 (\$300.00) Dollars by postal money order No. 38340927448 and as of the date of the hearing was prepared to tender an additional Six Hundred and No/100 (\$600.00) Dollars toward post-petition arrearage. The debtor further has agreed to make all future post-petition payments in accordance with his obligation to this creditor plus an additional One Hundred and No/100 (\$100.00) Dollars per month toward post-petition arrearage. This proposal is reasonable and taken in light of the equity cushion available to this creditor adequate protection is afforded.

It is therefore ORDERED that the motion for relief from stay by NCNB is denied conditioned upon the payment by the debtor of Six Hundred and No/100 (\$600.00) Dollars to NCNB immediately. Following the credit of the Three Hundred and No/100 (\$300.00)

Dollar payment by postal money order referenced above and immediate payment of an additional Six Hundred and No/100 (\$600.00) Dollars the balance of post-petition arrearage shall be satisfied at the rate of One Hundred and No/100 (\$100.00), Dollars per month. All future post-petition payments of the debtor to NCNB shall be made in accordance with the note obligation. The additional payment of One Hundred and No/100 (\$100.00) Dollars per month to cure post-petition arrearage shall be made along with the regular monthly payment.

In the event that the debtor fails to make current or post-petition payments as called for under this order this creditor may file an application for modification of stay with affidavit which application and affidavit may be made by this creditor's counsel of record in this proceeding setting forth the default with copies of same served upon debtor and debtor's counsel prior to filing. Following the expiration of three (3) business days from the date of service without counteraffidavit of debtor filed setting forth any factual dispute, the court may

grant relief from stay without further hearing.

ENTERED at Augusta, Georgia this 16th day of March, 1988.

JOHN S. DALIS
UNITED STATES BANKRUPTCY JUDGE